

Shawn K. Brown  
State Bar No. 03170498  
The Law Office of Shawn K. Brown PLLC  
P.O. Box 93749  
Southlake, Texas 76092  
Phone: (917) 488-6023  
Fax: (888) 688-4621  
[shawn@browntrustee.com](mailto:shawn@browntrustee.com)  
COUNSEL FOR THE CHAPTER 7  
TRUSTEE

H. Brandon Jones  
State Bar No. 24060043  
BONDS ELLIS EPPICH SCHAFER JONES  
LLP  
420 Throckmorton, Suite 1000  
Fort Worth, Texas 76008  
Phone: (817) 405-6914  
[brandon@bondsellis.com](mailto:brandon@bondsellis.com)  
COUNSEL FOR HAL ALLEN FAMILY, LP

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

IN RE:	§	
SYNERGY FABRICATION, INC.	§	CASE NO. 19-45206-ELM
	§	
	§	
DEBTOR	§	CHAPTER 7
	§	

**AGREED MOTION RELATING TO RELIEF FROM THE AUTOMATIC STAY TO  
PAY PROCEEDS FROM THE SALE OF COLLATERAL TO LANDLORD PURSUANT  
TO FEDERAL BANKRUPTCY RULE 4001(d)**

**NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS  
FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 501  
WEST TENTH STREET, ROOM 147, FORT WORTH, TEXAS 76102 BEFORE CLOSE  
OF BUSINESS ON MARCH 2, 2020, WHICH IS AT LEAST 14 DAYS FROM THE DATE  
OF SERVICE HEREOF.**

**ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK, AND A  
COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO  
THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED A HEARING  
MAY BE HELD WITH NOTICE TO THE OBJECTING PARTY AND OTHERS  
REQUIRED UNDER RULE 4001(D).**

**IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY REQUESTED, THE  
RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT  
MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED  
ACTION MAY BE TAKEN**

TO THE HONORABLE EDWARD L. MORRIS, U.S. BANKRUPTCY JUDGE:

Shawn K. Brandon, the chapter 7 Trustee (“Trustee”) in the above referenced bankruptcy proceeding and Hal Allen Family, LP (“HAF”), file this Agreed Motion Relating to Relief from the Automatic Stay to Pay Proceeds from the Sale of Collateral to Landlord (HAF) Pursuant to Federal Bankruptcy Rule 4001(d) (the “Motion”), and in support would respectfully show this Court as follows:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. 157(b)(2)(A), (G) and (O). Venue is proper in this District pursuant to 28 U.S.C. 1408 and 1409.

2. This Motion is made pursuant to §362 of the United States Bankruptcy Code and Federal Rule of Bankruptcy Procedure 4001(d).

### **SUMMARY**

3. The Trustee and HAF request relief pursuant to Federal Bankruptcy Rule of Procedure 4001(d) to allow the Trustee to pay HAF, a secured creditor of the Debtor, as set forth herein and on Exhibit A attached hereto from the proceeds of the auction and sale of the assets of the above captioned Debtor’s bankruptcy estate.

### **BACKGROUND**

4. On December 30, 2019 (the “Petition Date”) Synergy Fabrication, Inc. (“Debtor”) filed a voluntary petition under chapter 7 of the Bankruptcy Code, and Shawn Brown was appointed the Trustee of the Debtor’s bankruptcy estate.

5. The Debtor was engaged in the welding and fabrication business in the oil field services industry, and ceased operations prior to the Petition Date. The Debtor operated its

business in rented warehouse/industrial space located at 1432 E. Devitt St., Fort Worth pursuant to a Commercial Lease Agreement dated December 2, 2015 by and between the Debtor and HAF as amended and modified (the “Lease”). The current term of the Lease runs through July 31, 2022. A true and correct copy of the Lease is attached hereto as Exhibit B. The Lease grants HAF a security interest in all of Debtor’s inventory, equipment, and other assets as set forth therein which was perfected via the filing of a UCC-1 with the Texas Secretary of State. HAF also asserts a Texas Statutory Landlord’s Lien. Pursuant to the records of the Texas Secretary of State, no other creditor asserts a perfected security interest in the Debtor’s inventory, equipment, and other assets.

6. Most all of the Debtor’s assets are located in and on the leased premises at 1432 E. Devitt St., Fort Worth. On January 14, 2020 the Trustee filed a Motion to Sell Property Free and Clear of Liens under Section 363(f) [Docket No. 6] wherein the Debtor’s assets located at the premises leased by HAF would be sold via auction save and except for a GPU Unit which will be sold via private sale (the “Sale Motion”). No party objected to the Sale Motion, and Rosen Systems is set to sell the GPU Unit and auction the Debtor’s remaining assets on February 19, 2020. In the interim, the Debtor’s bankruptcy estate continues to occupy the premises subject to the Lease as the Trustee and Rosen Systems ready the Debtor’s assets located thereon or sale.

7. Prior to the Petition Date the Debtor failed to pay multiple months’ rent, costs, and fees under the Lease. Specifically, the Debtor owes and failed to pay HAF \$69,354.24 prior to the Petition Date, broken out as follows:

- |   |              |
|---|--------------|
| a. August 2019 through December 2019 rent under the Lease:      | \$58,870.80. |
| b. Late fees for multiple late or unpaid rent payments in 2019: | \$ 7,849.44  |
| c. Legal fees:  | \$ 1,184.00  |
| d. Fees to remedy environmental issues caused by Debtor         | \$ 700.00    |

- e. Locks and onsite monitoring of the leased property after Synergy was locked out of the property: \$ 750.00

8. In addition, the post-Petition Date January and February 2020 monthly rent under the Lease total in excess of \$19,000; however, as set forth below, HAF and the Trustee have agreed to a reduced rent for the January and February 2020. Moreover, HAF asserts that it holds or will hold a substantial Lease rejection claim pursuant to § 365 of the Bankruptcy Code.

### **AGREEMENT AND REQUEST FOR RELIEF**

9. The Trustee and HAF have agreed to the satisfaction of HAF's pre Petition Date claims and post Petition Date claims from the proceeds of the sale of the Debtor's assets pursuant to the Sale Motion and order approving same as follows:

- a. HAF's has pre-Petition Date secured claim under the Lease which shall be an allowed secured claim in the amount of \$69,354.24, secured by the inventory, equipment, and assets of the Debtor that will be sold via the Sale Motion;
- b. HAF has a post Petition Date secured claim for January 2020 and February 2020 rent under the Lease which shall be an allowed secured claim in the amount of \$17,000, secured by the inventory, equipment, and assets of the Debtor that will be sold via the Sale Motion;
- c. Subject to paragraphs e and f herein, the amount owed to HAF for its pre Petition Date and post Petition Date secured claims will be paid from the proceeds of the sale of the Debtor's assets pursuant to the Sale Motion and subsequent order approving same;
- d. The Trustee / Debtor's bankruptcy estate shall turn over to HAF full possession of the property that is the subject of the Lease on or before March 1, 2020 and such property shall be broom clean.
- e. HAF shall share in the hard costs of the auction of the Debtor's assets on a pro-rata basis. For example, if the auctioned assets bring a total of \$200,000, and the hard costs are \$10,000, then HAF's share of the costs of the auction will be \$4,317.71 ( $\$86,354.24 / \$200,000 = 43.17\%$ ;  $43.17\% \times \$10,000 = \$4,317.71$ ). The hard costs share will be deducted from the amount owed to HAF under its secured claims.
- f. The Trustee shall promptly pay to HAF proceeds from the sale of the Debtor's assets pursuant to the Sale Motion and subsequent order an amount equal to the lesser of: (a) \$86,354.24 less HAF's share of the hard costs of the auction, or (b) the proceeds from the sale of the Debtor's assets pursuant to the Sale Motion and subsequent order less HAF's share of the hard costs of the auction.

- g. Upon receipt of payment of its pre and post Petition Date secured claims, HAF will release any claim that it has for rent under the Lease after February 29, 2020, and legal costs and fees incurred post Petition Date.

The terms of the agreement between the Trustee and HAF are attached hereto as Exhibit A.

10. This Motion and the agreement between the Trustee and HAF allow for the efficient administration of this Debtor's estate, while substantially reducing the post Petition Date and Lease rejection claims against the Debtor. The Trustee and HAF request relief from the automatic stay to allow the Trustee to promptly pay HAF proceeds from the sale of the Debtor's property and assets as set forth herein.

WHEREFORE, the Trustee and HAF requests that this Court grant this Motion, grant relief from the automatic stay to allow the Trustee to pay the proceeds from the sale of the Debtor's assets in accordance with the agreement set forth in this Motion and on Exhibit A attached hereto, enter the proposed Order Granting Relief affixed to this Motion and for any further relief that the Trustee and HAF are justly entitled.

Respectfully submitted,

The Law Office of Shawn K. Brown PLLC

/s/ Shawn K. Brown

Shawn K. Brown  
State Bar No. 03170498  
The Law Office of Shawn K. Brown PLLC  
P.O. Box 93749  
Southlake, Texas 76092  
Phone: (917) 488-6023  
Fax: (888) 688-4621  
[shawn@browntrustee.com](mailto:shawn@browntrustee.com)  
COUNSEL FOR THE CHAPTER 7  
TRUSTEE

Respectfully submitted,

/s/ H. Brandon Jones

H. Brandon Jones  
State Bar No. 24060043  
BONDS ELLIS EPPICH SCHAFER JONES  
LLP  
420 Throckmorton, Suite 1000  
Fort Worth, Texas 76008  
Phone: (817) 405-6914  
[brandon@bondsellis.com](mailto:brandon@bondsellis.com)  
COUNSEL FOR HAL ALLEN FAMILY, LP

### **CERTIFICATE OF SERVICE**

In accordance with Federal Bankruptcy Rule 4001(d) and Local Bankruptcy Rule 4001, the undersigned hereby certifies that on February 17, 2020 a true and correct copy of the foregoing and all exhibits thereto were served via first class mail on the following and via ECF to those requesting services via this Court's electronic filing system:

Debtor  
Synergy Fabrication, Inc.  
1432 E. Devitt St.  
Fort Worth, Texas 76119

Larry Hurcules  
Counsel for the Debtor  
1400 Preston Road, Suite 400  
Plano, Texas 75093

Trustee  
Shawn K. Brown  
PO Box 93749  
Southlake, Texas 76092

US Trustee  
1100 Commerce Street  
Room 976  
Dallas, Texas 75202

Gas and Supply North Texas,  
LLC  
Larry Carbo  
1200 Smith Street, Suite 1400  
Houston, Texas 77002

TCRG RE Everman Parkway,  
LLC  
Craig M. Crockett  
5201 Camp Bowie Blvd.  
Suite 200  
Fort Worth, Texas 76107

Mewbourne Oil Company  
Shad Robinson  
100 N. Ritchie Road, Suite  
200  
Waco, Texas 76712

/s/ H. Brandon Jones

H. Brandon Jones